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Title: Regarding country wide strike by lawyers in protest of the amendments in Cr PC.

SHRI S.K. KHARVENTHAN (PALANI): The Government of India has recently amended the Code of Criminal Procedure 1973 through an Amendment Bill on 23.12.2008 in a hurried manner without any discussion in the Lok Sabha. Most of the amendments could be welcome, except certain amendments in Section 41 and Section 309 Cr.P.C.

The amended Section 41 (1) (a) permits the police to arrest any person who committed any cognizable offence in the presence of police officer. This power will be misused by some police personnel and will lead to violation of human rights. This amendment was opposed by various Chief Ministers during their meeting with the Home Minister on 6.1.2009, at New Delhi.

As per the amended Section 41 A, instead of arresting the accused, the police will now be obliged to issue him 'notice of appearance' for any offence punishable with imprisonment up to seven years like robbery, voluntarily causing grievous hurt, cheating, outraging a woman's modesty, and death caused by negligence. This may adversely affect the present system prevailing where police is arresting the accused in all cognizable cases at the earliest opportunity before giving them any chance to abscond from the process of law. Hence, the amendments in Section 41 (1), (a), (b) and Section 41A are highly objectionable. In the same manner, the amendments carried out under Section 309 (2) (b) and (c) provisos violate the constitutional rights of the citizen to be defended by a lawyer of his choice and it amounts to violation of principles of natural justice and fairness. [p34]

17.00 hrs.

In fact, now the existing provisions and with the prevailing bar and bench relations, courts are giving the reasonable opportunity to advocates appearing in cases and through this amendment rejecting their requests for adjournment are not genuine or bona fide.

For the past 15 days, the lawyers of the country are on the warpath and boycotting the court. Bar Council of India, State Bar Councils and various Bar Associations have already passed resolution requesting the Government to stop the notification of amended provisions. Therefore, in the interest of the Bar and clients of this country, I urge upon the Union Government not to notify the amended provisions in Section 41, Section 309 Cr.PC.